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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAMIEN ELRIC HUGHES,

Defendant.

Criminal No: 2:23-CR-00159-ABJ

GOVERNMENT’S MOTION FOR FINAL ORDER OF FORFEITURE

The United States, by and through Assistant United States Attorney Christyne M. Martens, respectfully asks this court to enter a final order of forfeiture pursuant to Federal Rules of Criminal Procedure, Rule 32.2(C)(2).

Rule 32.2(c)(2) states:

(c) ANCILLARY PROCEEDING; ENTERING A FINAL ORDER OF FORFEITURE.

(2) *Entering a Final Order.* When the ancillary proceeding ends, the court must enter a final order of forfeiture by amending the preliminary order as necessary to account for any third-party rights. If no third-party files a timely petition, the preliminary order becomes the final order of forfeiture if the court finds that the defendant (or any

combination of defendants convicted in the case) had an interest in the property that is forfeitable under the applicable statute. The defendant may not object to the entry of the final order on the ground that the property belongs, in whole or in part, to a codefendant or third party; nor may a third-party object to the final order on the ground that the third party had an interest in the property.

PROCEDURAL BACKGROUND

On November 15, 2023, the Defendant was named in an Indictment by a grand jury for the District of Wyoming. (Doc. 1). In the Indictment, the Defendant was charged with Nine Counts:

Counts One-Eight: Distribution of Child Pornography, in violation of 18 U.S.C. §§ 2252A(a)(2)(A) and (b)(1). (*Id.*)

Count Nine: Possession of Child Pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B), (b)(2). (*Id.*)

The Indictment also contained a forfeiture notice that included any visual depiction, which was possessed, produced, transported, mailed, shipped, or received in violation of 18 U.S.C. § 2252A, and any personal property used or intended to be used to commit and to promote the commission of the offenses charged, namely (together the “Subject Properties”):

- a silver Microsoft laptop computer with serial number 047090193154,
- a custom gaming computer, and
- a black Micro Center flash drive.

On April 18, 2024, the Defendant entered into a plea agreement with the United States. (Doc. 30). In the plea agreement, the Defendant agreed to plead guilty to Count Nine of the Indictment and consented to the forfeiture of the Subject Properties listed in the Indictment and admitted that the Subject Properties were involved in the offenses charged. (Doc. 1, 30).

On April 22, 2024, the Defendant pled guilty to Count Nine of the Indictment, Possession of Child Pornography, in violation of 18 U.S.C. §§ 2252A(a)(5)(B), (b)(2). (*Id.*). (Doc. 1, 33).

Upon the Defendant's plea of guilty to Count Nine of the Indictment, the court entered a Preliminary Order of Forfeiture on April 24, 2024, finding that the government had established the requisite nexus between the property to be forfeited and the crime of conviction. (Doc. 1, 36).

After the Preliminary Order of Forfeiture was entered, pursuant to 21 U.S.C. § 853(n)(2) and F.R.C.P. 32.2(b)(6)(C), the notice of the Preliminary Order of Forfeiture along with the requirements for filing a claim was published for thirty (30) days. A Declaration of Publication was filed with this court on June 25, 2024. (Doc. 43).

As of the filing of this motion, no third-party claims have been filed. Any third-party interests are now barred by failure of those parties to file a timely petition.

Accordingly, the United States respectfully requests that this Court enter a final order of forfeiture pursuant to Federal Rules of Criminal Procedure, Rule 32.2(c)(2), which will provide the United States with clear title to the property that are the subject of the preliminary order of forfeiture as proposed in the attached order.

Respectfully submitted this 10th day of July 2024.

Respectfully submitted,

ERIC J. HEIMANN
Acting United States Attorney

By: /s/ Christyne M. Martens
CHRISTYNE M. MARTENS
Assistant United States Attorney

CERTIFICATE OF SERVICE

This is to certify that on this 10th day of July 2024, I served a true and correct copy of the foregoing upon counsel via CM/ECF.

/s/ *Kebin Haller*
UNITED STATES ATTORNEY'S OFFICE